

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF PUERTO RICO

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CLERK'S OFFICE  
U.S. DISTRICT COURT  
SAN JUAN, P.R.

R&G ENGINEERING, INC.,  
et al.,

Plaintiffs,

v.

CIVIL NO. 98-1760 (RLA)

GREAT AMERICAN INSURANCE CO.,  
et al.,

Defendants.

MINUTES OF STATUS/SETTLEMENT CONFERENCE  
HELD ON SEPTEMBER 2, 1999  
AND VACATING TRIAL DATE

At the STATUS/SETTLEMENT CONFERENCE held on September 2, 1999 from 2:40 p.m. until 3:30 p.m. plaintiffs were represented by JOSE E. COLON SANTANA, ESQ. and defendant by WILLIAM GRAFFAM, ESQ.

Plaintiffs claim they were never put on notice of any outstanding debt prior to defendant collecting the insurance proceeds. They allege that the statements of account did not reflect that monies were owed nor have any demands for payment ever been made. The pertinent bills of lading apparently have been destroyed due to the time elapsed.

Plaintiffs contend that their action is based on a civil contract involving insurance and is therefore, subject to 15-year statute of limitations as provided by the Puerto Rico Civil Code. Plaintiffs' position is that it is a claim based on insurance

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1 proceeds inappropriately retained by the defendant. In the  
2 alternative, plaintiffs argue that by having filed a counter-claim  
3 defendant waived the time bar defense.  
4

5 According to defendant, plaintiffs were aware of the payment  
6 of the insurance proceeds since **July 1994** and failed to voice any  
7 objection until this case was filed in **June 1998**.

8 Defendant argues this action is one for tortious conversion  
9 subject to a one-year statute of limitations and cited Barreto Peat  
10 v. Ayala Colon, 896 F.2d 656 (1<sup>st</sup> Cir. 1990) in support thereof.  
11 Further, defendant indicated that the relationship between the  
12 parties fall under COGSA which also has a one-year limitations  
13 period. In the alternative, defendant argues that § 1910 of the  
14 Puerto Rico Commerce Code, which establishes a one-year limitation  
15 for actions arising from the delivery of cargo, would also render  
16 this action time-barred.  
17

18 In sum, defendant contends that this is an action sounding in  
19 torts and the period of limitations accrued in **July 1994** when  
20 plaintiffs learned about the insurance payment.

21 The parties would like to conclude various depositions prior  
22 to submitting the limitations issue for resolution by way of summary  
23 judgment.  
24  
25  
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1 Counsel for defendant advised that the deposition of ROBERTO  
2 CAMINO, plaintiffs' representative, had commenced but had to be  
3 continued due to the deponent's schedule.

4  
5 The parties scheduled the conclusion of the deposition of  
6 ROBERTO CAMINO as well as the depositions of PETER MACK and PETER  
7 JORDI, plaintiffs' representatives, for **September 23-24, 1999**.

8 The following deadlines were set for submission of the statute  
9 of limitations issue in accordance with the procedure set forth in  
10 the undersigned's Standing Order:

11 **10/15/99** Deadline for defendant to serve motion.

12 **11/5/99** Deadline for plaintiffs to serve opposition.

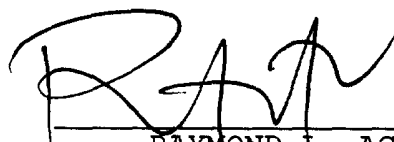
13 **11/15/99** Deadline for defendant to serve reply, if warranted.

14 Plaintiffs' motion for summary judgment will be held in  
15 abeyance until after resolution of the time-bar defense.

16  
17 The TRIAL scheduled for **September 14, 1999** is hereby **CONTINUED**  
18 **SINE DIE**.

19 IT IS SO ORDERED.

20 San Juan, Puerto Rico, this *nd* *2* day of September, 1999.

21  
22   
23 RAYMOND L. ACOSTA  
24 United States District Judge  
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